

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Melvin Cortum,
Appellant,

v.

Warren County Board of Review,
Appellee.

ORDER

Docket No. 14-91-0103
Parcel No. 63-236-02-0290

On February 3, 2015, the above-captioned appeal came on for a telephone hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Melvin Cortum was self-represented. Warren County Attorney John Criswell was counsel for the Board of Review, but Warren County Assessor Brian Arnold represented it at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised finds:

Findings of Fact

Melvin Cortum is the owner of a residentially classified property located at 319 Pine Avenue, Norwalk, Iowa. It is a one-story home built in 2006 with 1499 square feet of living area; a full, walkout basement with 1150 square feet of living-quarter finish; a small open porch; a deck; and a patio. It also has a three-car attached garage. The site is 0.223 acres.

Cortum protested the property's 2014 assessment of \$271,700, allocated as \$45,000 in land value and \$226,700 in improvement value, to the Board of Review. The 2014 assessment changed from the previous year making all grounds available for protest under Iowa Code section 441.37(1)(a)(1) (2014). Cortum claimed the property was assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b). The Board of Review denied his claim.

Cortum then appealed to this Board. He asserts the correct value is \$225,000.

Cortum submitted property record cards of four properties he believes are comparable to his. (Exhibits 2-5). The following chart summarizes this information.

Address	Size	Basement Finish	Walkout	2014 Assessed Value	Sale Price	Sale Date
Subject	1499	1150	Yes	\$271,700	\$215,000	May-12
311 Pine Ave	1507	625	Yes	\$259,200	\$226,500	August-12
225 Elm Ave	1722	850	Yes	\$271,600	\$238,000	January-12
515 W Pine Ave	1628	1150	Yes	\$279,800	\$246,000	February-13
217 Marie Ave	1378	1200	No	\$221,200	\$205,000	June-13

All of the properties are one-story homes built between 2006 and 2007 like the subject property. With the exception of 217 Marie Avenue, all of the properties have a 3-5 grade like the subject. The 217 Marie Avenue property has a 4+10 grade, which is inferior to the subject grade, and may explain why it has the lowest sale price and assessment. Cortum did not adjust the sales for differences and did not conclude a final opinion of value based on these sales.

The record also includes a spreadsheet of comparable properties submitted by the Assessor's Office to the Board of Review at its hearing. The following chart summarizes the pertinent information.

Address	Size	Basement Finish	Walkout	2014 Assessed Value	Sale Price	Sale Date
Subject	1499	1150	Yes	\$271,700	\$215,000	May-12
515 W Pine Ave	1628	1150	Yes	\$279,800	\$246,000	February-13
410 Braeburn Dr	1551	1200	No	\$267,100	\$264,000	December-13
510 Braeburn Dr	1500	850	Yes	\$263,100	\$264,900	May-13
601 W Pine Ave	1630	1150	No	\$286,900	\$289,000	November-13
511 Braeburn Dr	1457	1250	No	\$263,100	\$255,533	February-13
500 Braeburn Dr	1507	1300	No	\$273,600	\$274,549	August-13

First, we note with the exception of 515 W Pine Avenue, which was built in 2007, all of the sales the Assessor chose were built in 2012 or 2013, whereas the subject property was built in 2006. However, all of the sales, except 601 W Pine Avenue, have a 3-5 grade like the subject. The property at 601 W

Pine Avenue has a 3-00 grade, which is superior, and may explain why it has the highest sale price and assessment. Cortum was critical of the properties on Braeburn Drive because they are newer, and he believes they have nicer lots. In his opinion, these factors make the Braeburn Drive properties more appealing than the subject property. Ultimately, like Cortum's evidence, these sales are unadjusted for differences. Nor does it appear the Assessor's Office drew any conclusion of value for the subject property based on these sales.

The Board of Review also submitted an appraisal of a property adjacent to the subject. (Exhibit B). Assessor Arnold testified that Sale 3 (314 Pine Avenue) in the appraisal, which sold for \$264,900, is located directly across the street from the subject property. Cortum asserts this property is not comparable to the subject because it is larger, has more basement finish, and does not have a walkout lower level. Ultimately, this property was not adjusted for differences as compared to the subject property. Moreover, we do not find an appraisal of a different property, regardless of the similarities, relevant to establishing the fair market value of the subject property. We give the appraisal no consideration.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

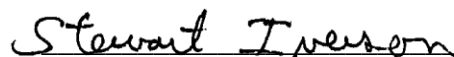
In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Cortum submitted four properties he considered comparable to the subject property, but he did not adjust them for differences. Moreover, he did not submit any other evidence of the fair market value of the subject property such as an appraisal, and thus, failed to prove his property was over-assessed.

THE APPEAL BOARD ORDERS the 2014 assessment of Melvin Cortum's property located at 319 Pine Avenue, Norwalk, Iowa, set by the Warren County Board of Review, is affirmed.


Dated this 2nd day of March, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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